



APPENDIX 13

Office Action mailed October 23, 2000,
in U.S. Serial No.09/288,943 filed April 09, 1999.

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**UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/288,943 04/09/99 INGISTOV

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EXAMINER

KWON, J

ART UNIT

PAPER NUMBER

3747

DATE MAILED:
10/23/00

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/288,943

Applicant(s)

Steve Ingistov

Examiner

Kwon, John

Group Art Unit

3747

☒ Responsive to communication(s) filed on Aug 17, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 32-41 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 32-41 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

DETAILED ACTION

Housekeeping

Applicant(s) is(are) suggested to list a current telephone number, a facsimile number and a list of the attachments, if any, under the signature of the attorney/applicant for each response to the Office action(s) in order to expedite and make accurate the prosecution of the application.

1. The submission of the Information Disclosure Statement dated April 9, 2000 has been received and fully considered. No further Information Disclosure Statement is in the records.

Drawings

2. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed. See Notice of Draftsperson's Patent Drawing Review, PTO-948, Paper No. 5.

Claim Rejections - 35 USC § 135 (b)

3. Claims 32-41 are rejected under 35 U.S.C. 135(b) as not being made prior to one year from the date on which U.S. Patent No. 5,630,590 was granted.

The copied claims were submitted on the filing date of the instant application (April 9, 1999) which is not within one year of the issue date of Patent No. 5,630,590 (issue date: May 20, 1997). The proposed interference by the applicant is not granted unless the applicant

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claimed "substantially the same subject matter" within one year of the issue date of the patent.

See MPEP 2307.

Response to Arguments

4. Applicant's arguments filed August 17, 2000 have been fully considered but they are not persuasive. The issue is whether the "substantially the same subject matter" **claimed** within one year of the issue date of the patent. The first time the copied claims 32-41 are appeared on April 9, 1999 in the application 09/288,943 which is later than one year time period.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire **THREE MONTHS** from the date of this action. In the event a first response is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than **SIX MONTHS** from the date of this final action.

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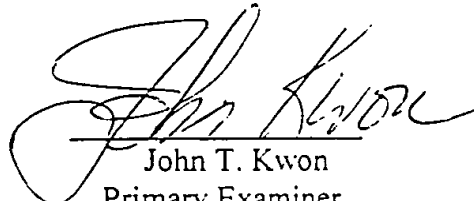
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Contact Information

Any inquiry concerning this communication should be directed to Examiner Kwon at telephone number (703) 308-1046 and facsimile numbers (703) 308-7766. The examiner can normally be reached on Monday thru Friday from 8:30 AM to 5:00 PM.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.


John T. Kwon
Primary Examiner
Art Unit 3747

October 20, 2000